Government of Himachal Pradesh
Department of Home

No. Home-B (B) 15-10/2006-HC Dated; Shimla-2, the 27/07/2015.

Notification

In exercise of the powers vested in him under Sub-Section (1) of the Section 20 of the Code of Criminal Procedure, 1973, the Governor, Himachal Pradesh is pleased to confer the powers of Executive Magistrates upon the Naib Tehsildar /Tehsildars in the State of Himachal Pradesh, under the said Code to be exercised within the local limits of their respective jurisdictions for performing the functions enlisted at Sr. No. 2 to 8 of this Department's letters No. Home-B (B)-12-5/84 dated 4-12-84 and 28.12.84 (Copies enclosed).

The function enlisted at Sr. No. 1 (cases under Criminal Procedure Code) of above letters shall be performed by the Sub Divisional Magistrates, who either belong to the IAS or HPAS. They will not transfer such cases to other Executive Magistrate except in rare and exceptional case and for pressing reasons. When the cases under Criminal Procedure Code are required to be transferred, the same will be transferred to such

Continued.........P/2
Executive Magistrates, who have passed the Departmental examination in Criminal Law and Procedure prescribed for them and possess requisite educational qualifications which would be at least Graduate in case of direct recruits and Matriculation in case of promotees with at least 5 years of experience by recording reasons for transfer on the case file as well as in the periodical returns submitted by the Executive Magistrates to the High Court.

This is in supersession of this department notification of even number dated 11.3.2011.

BY ORDER,

Parthasarathi Mitra
Chief Secretary (Home) to the Government of Himachal Pradesh
fax 0177- 2621022

Copy for information & necessary action is forwarded to:-

1. The Addl. Chief Secretary (Rev) to the Govt. of H.P.
2. The Registrar General, High Court of H.P., Shimla-1.
3. The Secretary (Law) to the Govt. of H.P. Shimla-2.
4. The Divisional Commissioners, Shimla, Mandi, Kangra.
5. All the Settlement Officers in Himachal Pradesh.
6. All the District & Sessions Judges in Himachal Pradesh.
7. All the Deputy Commissioners in Himachal Pradesh.
8. Controller, Printing and Stationery, H.P. Shimla-5 for publication in Rajpatra.

(Devinder Saraswati)
Joint Secretary (Home) to the Government of Himachal Pradesh
fax 0177- 2626450
No.Home-B(B)-12-5/84,
Government of Himachal Pradesh
Home Department.

From

The Secretary(Home) to the
Government of Himachal Pradesh,

To

All the District Magistrates in
Himachal Pradesh;

Dated Shimla-2, the 4th December, 1984.

Sir,

I am directed to invite your attention to this
Department letter of even number dated 28th July, 1984 and
to state that the Executive Magistrates are required to
discharge varied functions under various laws within their
jurisdiction. These functions can be broadly summarised as
follows:

1. Enquiry and trial of cases under the Criminal
   Procedure Code;
2. Attestation of true copies of certificates;
3. Attestation of Affidavits under Indian Cath Act;
4. Issue of bonafide residence certificates,
   certificates of income and Certificates of
   Scheduled Casto and Scheduled Tribe etc.
5. Functions under the Punjab Police Rules, as
   applicable to Himachal Pradesh;
6. Functions under the Land Acquisition Act;
7. Attestation of certificates and forms etc. for
   admission to educational institutions etc.;
8. Any other miscellaneous functions which do not
   involve recording of evidence, sifting of
   evidence, application of mind and writing of
   order.

2. In so far as functions of the Executive Magistrate
   under the Criminal Procedure Code are concerned, these involve
   recording of evidence, sifting of evidence, application of
   mind and issue of orders.

......2/-
3. It has been decided by the State Government that the Sub Divisional Magistrates, who either belong to the Indian Administrative Service or to the Himachal Pradesh Administrative Service only will take cognizance of cases under the Criminal Procedure Code which involves recording of evidence, sifting of evidence, application of mind and issue of order. They will ordinarily not entrust any such case to any other Executive Magistrate working under them within their jurisdiction unless there are pressing reasons and the officer to whom such cases are transferred, is fully qualified to enquire into and try such cases. Other Executive Magistrates, who are Naib-Tehsildars and Tehsildars working in the interior of the State, shall only perform functions enlisted from Serial No. 2 to 8 above, which do not involve issue of judicial/quasi-judicial orders.

4. The Sub Divisional Magistrates who are also Executive Magistrates, will primarily try and enquire into the cases which involve recording of evidence, appreciation of evidence, application of mind and issue of order and would be only those officers, who have passed the Departmental examination paper in Criminal Law and Procedure prescribed for them and would have undergone the training either in any institution or otherwise on the job or have gained sufficient experience of work. However, under pressing circumstances such cases may be entrusted to the other Executive Magistrates under them, who will be only such officers who have passed the departmental examination in Criminal Law and Procedure prescribed for them and possess requisite educational qualifications which would be atleast Graduate in case of direct recruits and Matriculation in case of promotees with atleast 5 years of experience.

Yours faithfully,

Deputy Secretary (Home) to the Government of Himachal Pradesh.
IMMEDIATE

No. Home-D(E)-12-5/84
Government of Himachal Pradesh
Department of Personnel (A-I)

From
The Secretary (Home) to the
Government of Himachal Pradesh.

To
All the District Magistrates in
Himachal Pradesh.

Dated Shimla-2, the 28th December, 1984.
Subject: Powers of Executive Magistrates.

Sir,

In continuation of this Department letter of even
number, dated the 4th December, 1984, on the subject cited
above, I am directed to state that Criminal Writ Petition
No. 12 of 1984 (On Prakash & others Vs State of H.P. & others)
came up before the Hon'ble Himachal Pradesh High Court on
10th December, 1984. A copy of the order passed by the Hon'ble
H.P. High Court is enclosed. As directed therein all Sub-
Divisional Magistrates (who either belong to the IAS or HVS)
may be directed not to transfer cases under Criminal Procedure
Code which involve recording of evidence, sitting of evidence-
etc. except in rare and exceptional cases and for pressing
reasons, when such cases are required to be transferred to
other Executive Magistrates (who have passed the Department
examination in Criminal Law and Procedure prescribed for them
and possess requisite educational qualifications which would be
at least Graduate in case of direct recruits and Matriculation
in case of promotes with at least 5 years of experience), the
reasons for such transfer should be clearly recorded on the
case file as well as in the periodical returns submitted by
the Executive Magistrates to the High Court. The cases where
such transfer has been effected should be clearly shown by the
Sub-divisional Magistrates, who have ordered the transfer, in
such periodical returns with the recorded reasons for such
transfer.

All concerns should observe these orders faithfully
and punctually.

Yours faithfully,

[Signature]
Deputy Secretary (Home) to
the Govt. of Himachal Hare.
No. Home-B(R)-12-5/84 Date: Shimla-2, the 28th December, 1984.

1. Copy along with a copy of enclosures forwarded to all the Sub-Divisional Magistrates in Himachal Pradesh for strict compliance. These orders should be observed faithfully and punctually as directed by the Hon'ble H.P. High Court.

2. Copy to the Registrar (Vigilance), Himachal Pradesh High Court, Shimla.


Deputy Secretary (Home) to the Govt. of Himachal Pradesh.